IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.2.2008

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Contempt Petition No.330 of 2004

J.Surendran .. Petitioner

vs.

1. Mrs.Sudha Vijayakumar
M.G.R.Gardens
Manapakkam Village
Chennai 600 089
also at 74, Bhavanna Mudali St.,
Alwarpet, Chennai-18

2. M.Nandan
Proprietor, Rajarajan Pathipagam
19, Kannadasan Salai
Chennai-600 017

3. R.Radhakrishnamoorthy
Managing Director
New Century Book House (P) Ltd.,
41-B, SIDCO Industrial Estate
Ambattur, Chennai-600 098 .. Respondents

The Contempt Petition has been filed under Section 10 & 12 of The Contempt of Courts Act, 70/71, to issue notice to the respondents 1 to 3 and punish them for having committed contempt of the orders of this Court dated 21.1.2004 and passed in O.A.No.20 of 2004, in C.S.No.17 of 2004.

For petitioner : Mr.T.V.Ramanujam
Senior Advocate
for C.Jagadish
For respondents : Mr.M.Sriram for R1
Mr.S.Vijayakumar for R2
Mr.K.Ramesh for R3
for M/s.La-Law

O R D E R

The above contempt petition has been filed praying that this Court may be pleased to punish the respondents for having committed contempt of Court by wilfully disobeying the order, passed by this Court, on 21.1.2004, in O.A.No.20 of 2004 in C.S.No.17 of 2004.

2. It is submitted by the petitioner that he had filed a civil suit before this Court in C.S.No.17 of 2004, praying for a declaration that he is the exclusive owner of the copy right in the work titled

'Naan Yen Piranthen', the written autobiography of late Dr.M.G.Ramachandran, former Chief Minister of Tamil Nadu. The petitioner had also filed an Original Application in O.A.No.20 of 2004, praying for an order of interim injunction and an Application No.148 of 2004 had also been filed praying for the appointment of an Advocate Commissioner to take inventory of the available copies of the book and hand over the same to the second respondent.

3. While this Court had passed an order of injunction, on 21.1.2004, in Original Application No.20 of 2004, the book in question was being sold in New Century Book House Private Limited, at Coimbatore. The petitioner had purchased the book, on 22.2.2004, and a copy of the cash bill had been obtained by the petitioner. By the order passed by this Court, on 21.1.2004, made in O.A.No.20 of 2004, this Court was pleased to restrain the respondents, their agents, servants and men and every one claiming under them or acting on their behalf from in any way interfering with the petitioner's exclusive and absolute ownership of the copy right in the work titled 'Naan Yen Piranthen'. Since the respondents had wilfully and deliberately disobeyed the orders passed by this Court, on 21.1.2004, they have committed contempt of Court as claimed by the petitioner.

4. A Sub Application in Sub Application No.310 of 2004 had also been filed in the above contempt petition to appoint an advocate commissioner to seize the copies of the work titled 'Naan Yen Piranthen' which is the subject matter in the Civil Suit in C.S.No.17 of 2004, from the offices of the second and third respondents and from other places and wherever they were found and to hand over the same to the petitioner to be kept in safe custody. This Court had passed an order, on 28.9.2004, appointing an Advocate Commissioner as prayed for in the said application.

5. Based on the said order, the Advocate Commissioner had filed a report, dated 8.10.2004, after having completed the work assigned to her.

6. In the counter affidavit filed on behalf of the first respondent she has tendered an unconditional apology, in case this Court comes to the conclusion that she had violated the orders passed by this Court, by her act or omission. Further, the first respondent had denied the allegations made by the petitioner stating that she has not sold any book after the order passed by this Court, on 21.1.2004, nor has she instructed the second respondent to sell the same. There is no privity of contract between the first and the third respondents. Hence, the claims made in the contempt petition are in correct as they are not based on facts.

7. In the counter affidavit filed on behalf of the second respondent, it has been submitted that the second respondent had not disobeyed the orders of this Court and even otherwise, he had tendered an unconditional apology to absolve him of the contempt proceedings.

8. The second respondent has stated that he has nothing to do with the alleged sale of the book in the third respondent business premises at Coimbatore. The second respondent had only executed the order placed by the first respondent for printing 1000 copies of the book at his cost against 100 number of books towards the royalty given to the first respondent. Once the order was fulfilled, the duty of the publisher had got extinguished. In such circumstances, the second respondent has not committed contempt of Court by wilfully disobeying the order, dated 21.1.2004, made in O.A.No.20 of 2004 in C.S.No.17 of 2004.

9. The third respondent had also filed a counter affidavit. Paragraphs 5 and 6 of the counter affidavit read as follows:
"5. I submit that the allegation that the petitioner sold the said book on 22.2.2004 is not true, but the same had been sold through this respondent by the author in a book exhibition held at Coimbatore and it is pertinent to note here that any books sold in exhibition by the books seller is only through

"Sale or Return basis" and this respondent does not hold any custody of the book injuncted by this Hon'ble Court.
6. I submit that despite having no knowledge of the interim order passed by this Hon'ble Court against the respondents 1 and 2, this respondent had not violated any orders of this Hon'ble Court nor has any intention to sell the above book "Naan Yen Piranthen" which is the lis between the petitioner and the respondents 1 and 2 alone. At any event, this respondent tenders his unconditional apology in the event this Hon'ble Court holds this respondent for being committed any act of contempt of this Hon'ble Court."

10. Based on the submissions made by the learned counsels appearing for the parties concerned and in view of the averments made in the affidavit filed in support of the petition and the counter affidavits filed on behalf of the respondents and on a perusal of the records available, this Court is of the considered view that no contempt has been committed by the respondents as alleged in the contempt petition. Therefore, the contempt petition stands closed. However, the books seized by the Advocate Commissioner pursuant to the order passed by this Court, on 28.9.2004, in Sub Application No.310 of 2004, would remain with the petitioner until further orders are passed by this Court. It is open to the parties concerned to move this Court in Civil Suit No.17 of 2004, by an appropriate application, filed in accordance with law, to sell the books and to deposit the proceeds thereof, in order to preserve the value of the books seized, if so advised. No costs.

19.2.2008
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INDEX : YES/NO
INTERNET : YES/NO
M.JAICHANDREN J.,

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To:
Mr.Vijayakumar
District Collector
Chennai

Cont.P.No.330 of 2004

11.2.2008